

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER BAKER, JR.,

Petitioner,

-against-

9:18-CV-1048 (LEK/DJS)

THE STATE OF NEW YORK and
DEBORAH MCCULLOCH, *Executive
Director, Central New York Psychiatric
Center,*

Respondents.

MEMORANDUM-DECISION AND ORDER

I. INTRODUCTION

Petitioner Christopher Baker commenced this *pro se* action on September 4, 2018 seeking a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Dkt. No. 1 (“Petition”). Petitioner is currently confined at the Central New York Psychiatric Center due to a conviction for Sexual Abuse in the First Degree based on a guilty plea made on March 22, 2010. Dkt. No. 11-2 (“State Court Record” or “SCR”), at 3–15. Petitioner seeks habeas relief on the following grounds: (1) denial of a preliminary hearing, denial of jurisdictional transfer, ineffective assistance of counsel; (2) defective grand jury procedure, legally insufficient indictment, ineffective assistance of counsel; and (3) violation of statute of limitations of prosecution, and ineffective assistance of counsel. See Pet. at 6–9.

On February 14, 2019, Respondent opposed the Petition, arguing it is time-barred and that Petitioner’s claims do not warrant habeas relief. See Dkt. No. 11-1 (“Response”). Petitioner filed a traverse motion on March 25, 2019. Dkt. No. 12 (“Traverse”).

Now before the Court is a Report-Recommendation filed by the Honorable Daniel J. Stewart, recommending that the Court dismiss the action in its entirety. Dkt. No. 13 (“Report-Recommendation”). For the reasons that follow, the Court approves and adopts the Report-Recommendation.

II. BACKGROUND

A. Factual Allegations

Petitioner’s factual allegations are detailed in the Report-Recommendation, familiarity with which is assumed. See R. & R. at 3–4.

B. The Report-Recommendation

On July 22, 2021, Judge Stewart thoroughly reviewed each of Petitioner’s claims and found that, while they were not time-barred, they were without merit and did not warrant habeas relief. See R. & R. at 8–19.

III. STANDARD OF REVIEW

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). If objections are timely filed, a court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). However, if no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. Barnes v. Prack, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306–07 (N.D.N.Y. 2008), abrogated on other grounds by Widomski v. State Univ. of N.Y. at Orange, 748 F.3d 471 (2d Cir. 2014); see also Machicote v. Ercole, No. 06-CV-13320, 2011 WL

3809920, at *2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a pro se party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal”). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” § 636(b).

IV. DISCUSSION

Petitioner did not file objections to the Report-Recommendation by August 9, 2021, when they were due pursuant to Fed. R. Civ. P. 6(d) and 6(a)(1)(C). See Docket. Consequently, the Court reviews the Report-Recommendation for clear error and finds none. Therefore, the Court adopts the Report-Recommendation in its entirety.

V. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 13) is **APPROVED and ADOPTED** in its entirety; and it is further

ORDERED, that the Petition (Dkt. No. 1) be **DENIED and DISMISSED**; and it is further

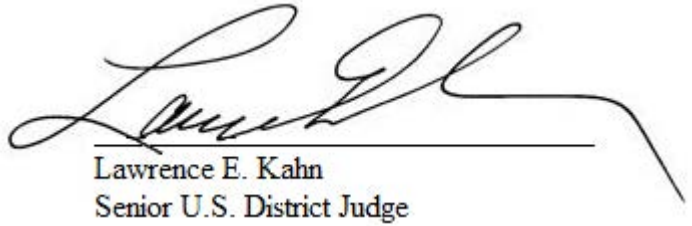
ORDERED, that no Certificate of Appealability (“COA”) be issued because Petitioner has failed to make “a substantial showing of the denial of a constitutional right” as required by 28 U.S.C. § 2253(c)(2). Any further request for a COA must be addressed to the Court of Appeals (Fed. R. App. P. 22(b)); and it is further

ORDERED, that the Clerk close this action; and it is further

ORDERED, that the Clerk serve a copy of this Memorandum-Decision and Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: August 12, 2021
Albany, New York



Lawrence E. Kahn
Senior U.S. District Judge